

Group's RICO Suit Against City Withdrawn

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By Camille Sailer



WILDWOOD – The federal-level RICO complaint against city officials, filed by Point Break Group Management LLC, was withdrawn March 27.

Legal counsel Eric Weitz of Messa and Associates, representing Point Break Group Management LLC, filed a lawsuit Jan. 26, in U.S. District Court for the Eastern District of Pennsylvania against a number of Wildwood government officials including Mayor Ernie Troiano and private individuals and companies.

The civil action alleged violations of the 1970 federal RICO (Racketeer Influenced and Corrupt Organizations) Act legislated to combat organized crime to the harm of plaintiff Point Break, a concert and event promoter based in Medford. Defendants in addition to Troiano are Commissioners Pete Byron and Anthony Leonetti, City Solicitor Mary D'Arcy Bittner, Wildwood Beach Utility supervisor Ryan Troiano (son of the mayor), City Administrator Chris Fox, Beach Buddy LLC, and Leverage SGH LLC.

The federal-level RICO complaint was withdrawn through a "Notice of Voluntary Dismissal" without prejudice March 27, Bittner provided a copy of it to the Herald. The same allegations will now be argued through the state-level court system with early discovery depositions scheduled May 16.

"The lawsuit was withdrawn because it was frivolous and the attorney who filed it was threatened with a motion for sanctions for filing a frivolous lawsuit if he did not withdraw it," said Bittner.

The federal RICO civil action was related to now-pending cross breach of contract claims at the state level in which Point Break is suing the city and the city is suing Point Break for breach of contract.

These actions stem from the complaint by Point Break that defendants conspired to prevent it from doing business it was contracted to do under a "Concessionaire's Agreement" in an effort to further their own collective gain.

Point Break avers that it believed it had an exclusive contract for beach amusements with Wildwood and that the defendants interfered with this agreement, and as a result it suffered financial injury and injury to the company's reputation.

The five-count complaint alleges the defendants engaged in activities which affected interstate commerce, used their individual governmental positions and relationships to engage in alleged racketeering activity, committed mail fraud, as well as wire, radio and/or television fraud, interfered with commerce by threats of violence with the intent to have Point Break forego their contractual rights with the city, used plaintiff's ideas and connections for their own financial benefit, used phones and the Internet to further racketeering activities, and used their office to acquire interests in various activities and services.

Specifics of these allegations also include that Wildwood misused the police to harass and mistreat members of Point Break by telling surfing instructors to leave the beach. The city's counterclaim alleges that Point Break failed to perform its obligations under the Concessionaire's Agreement thus breaching its contractual ob

"The federal RICO complaint relied on exactly the same set of facts which Point Break used to file at the state level," said Alain Leibman of Fox Rothschild law firm. "There was a total lack of merit regarding its RICO complaint and if it went before the judge for initial consideration and then was

dismissed by the judge the attorney's fees and court costs would have been high. So they voluntarily withdrew because their suit was totally and blatantly without merit."

Leibman was brought into the case as legal consultant by the city to represent the Wildwood defendants against the RICO complaint. "There are certain legal doctrines which prohibit this type of filing when an identical or similar action has also been filed at the state level. Federal RICO provisions however provide for treble damages, i.e. three times the amount in controversy, as well as legal fees so I think they (Point Break) were trying to use that to intimidate and harass the defendants," he further explained.

Eric Weitz, attorney for Point Break, did not respond to the Herald's request for comment.

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